

CONFIDENTIAL

April 7, 2009

TEXAS MEDICAL BOARD

TO: Texas Medical Board

2009 APR 13 AM 10:22

RE: Dr. R. Arafiles - Active Medical Staff member of Winkler County Memorial
Kermit, TX

The current Administration, with approval of the Medical Staff and Board of Control has approved a policy of "Self Review" which prohibits reporting of any concerns to any Board/ Agency without their being notified of the intent to report.

This issue began when Dr. M. Young was reported last year for abandonment of patients. The Bylaws require that the physician arrange for care by another provider before he/she leaves. This was not done, however, the Administrator was contacted and somehow managed to resolve this issue to the Boards satisfaction. Since that time, he has been able to negotiate with the Medical Staff and Board of Control to have reporting and record review procedures altered to require notification and or approval before any action is taken. In fairness, there is one new Board member who relies on Administration and other Board members to provide accurate information and guidance.

As a patient advocate and registered nurse, it is my duty and responsibility to express my concerns regarding the standard of care that this physician provides to the community. This is a brief list of the patient files that are of concern:

Standard of Care/Patient Safety issue

14820-112282 14813-112192 4109-111654 0180-116288
6553-113402 6553-113450

Patients that are seen in the clinic by Dr. Arafiles are later emailed and encouraged to buy herbal medicines that he sells. These medicines are not sold in the clinic.

In the December meeting of the Medical Staff it was decided that Dr. Arafiles would be given active medical staff privileges. This was done with the proviso that he contacts the Medical Board to remove the restriction on his license. This was to be accomplished within 6 months - June 2009. The current Bylaws require that the privileges be granted to a physician with an unrestricted license. If this is not accomplished, then he could not be on active staff.

The pharmacy has kept a log of intervention necessary due to dosage issues i.e. Vancomycin dosage, dosage in children and MVI usage. Herbal medications are not in the formulary.

Utilization Management was told by Administration, Mr. Wiley not to send any records for review, he would tell UM when that could be started. -Fall 08.

Concerns have been voiced by two other physicians, ED staff, and clinic staff. The Administrator and Board of Control have been notified of these concerns - re: procedures, standards of care. The Chief of Staff, Dr. Pham, requested a meeting for October 16th with Drs. Arafiles and Winton, and A. Mitchell and Mr. Wiley.

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Mr. Wiley cancelled the October 16th meeting. Mr. Wiley then cancelled the regular Medical Staff meeting on November 12th and rescheduled for November 26th, the day before Thanksgiving. He cancelled this one also. The privileges for Dr. Arafiles were to be addressed at the November Medical Staff meeting - continuation of provisional (as recommended by Dr. Pham) or appointment to active staff. As stated, Dr. Arafiles was granted active privileges, in December, with the proviso that he gets the restriction removed from his license.

Dr. Pham, Chief of Staff, presented his concerns to the Board of Control at their December meeting. His report consisted of documentation and case review, as well as current standards of care. Dr. Pham has also intervened when supplies were requested by Dr. Arafiles - with the reported intent to perform a procedure in the home of the patient rather than at the hospital. The supplies were not provided.

Due to the "economic climate", the fact that I am over 50, female, and have been employed by this facility since the 1980's; I am hesitant to place a signature on this information. Administration has made it clear that there will be no reporting of any problems without Administrative, Medical Staff and Board notification. This would certainly create an opportunity for Mr. Wiley to remove me from employment.

At the appropriate time I will speak with an investigator, should the Medical Board determine that an investigation is warranted.

Thank you

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Texas Medical Board

Mailing Address: P.O. Box 2018 • Austin, Tx 78768-2018
Location Address: 333 Guadalupe Tower 3 Suite 610 Austin TX 78701
Phone (512) 305-7100 • Fax (512) 305-7123

April 15, 2009

ROLANDO GERMAN ARAFILES JR, MD
706 CHAMPIONS ROW
VICTORIA, TX 77904

Re: File # 09-4208 (please refer to this number in future correspondence.)

Dear Doctor ARAFILES:

The Texas Medical Board (TMB) has received a complaint against you. According to state law, Texas Medical Practice Act § 154.057 (a)-(b), all complaints received by the Board against a physician must be evaluated within 30 days, or the complaint is automatically filed for investigation.

As part of this process, TMB rules allow 14 days from the date of this letter for you to respond to this complaint. Your response is due on or before 04/29/2009. In order to meet the statutory deadline, no extension can be granted.

Within a 30-day period, the Board must determine if there is a violation of the Medical Practice Act indicated which warrants an official investigation, or if the complaint should be closed without being filed as an official investigation. Your response is important to the Board's evaluation.

These allegation(s) fall under the general statutory violation of:

164.051(a)(6) - QC PRACTICE INCONSISTENT WITH PUBLIC HEALTH AND WELFARE - QUALITY OF CARE
164.053(a)(5)-NON-THERAPEUTIC PRESCRIBING OR TREATMENT

The complaint allegations specifically relate to:

With regard to care/treatment and prescribing practices for patients:

[REDACTED]

As part of your response, you are encouraged to include any records or documents you believe are relevant. If you provide a complete copy of your office records (medical and billing), please complete the enclosed Affidavit and attach it to the submitted records. The TMB is HIPAA exempt, which means you can legally provide protected health information without further patient consent.

A determination will be made after considering your response and other available evidence. If a formal investigation is warranted and the complaint is filed, you will receive a notice letter with additional information. If the complaint is not filed, you will be notified in writing within the next few weeks. The complaint and your response, if any, will become part of the agency record of this matter.

Please forward your response and documentation to mail drop MC-263 at the address listed above. If you have any questions, please contact PAM CROCKER at (512) 931-2220.

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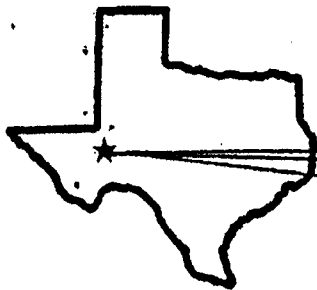
Sincerely,

The Texas Medical Board

Enclosure: Affidavit

JSUB01.doc

18768



WINKLER COUNTY
ORGANIZED IN 1910

ROBERT L. ROBERTS, JR., SHERIFF

TEXAS MEDICAL BC

WINKLER COUNTY

Post Office Box 860
KERMIT, TEXAS 79745
TELEPHONE: 915-888-3481

2009 MAY -8 PM 2:

Texas Medical Board
Mari Robinson Executive Director
P.O. Box 2018
Austin, TX 76768

Ref. File #09-4208

Dear Director Robinson

I am conducting a criminal investigation for the offenses of Misuse of Official Information (PC 39.06) and Harassment (PC 42.07) in the case of the complaint filed with the Texas Medical Board regarding Dr. Rolando G. Arafiles Jr., file # 09-4208. I am requesting a copy of this complaint from the Texas Medical Board to assist with this investigation. I thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Robert L. Roberts'.

Sheriff Robert L. Roberts

EXHIBIT

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TEXAS MEDICAL BOARD

May 11, 2009

Robert L. Roberts
Winkler County
PO Box 860
Kermit, TX 79745

COPY

Re: Request for Information Regarding Log #09-4208

Dear Sheriff Roberts:

The Texas Medical Board ("TMB") received your request on May 8, 2009. Enclosed is the following information that is classified as public information:

Public Verification Printout(s)
Disciplinary Order(s)

Some information responsive to your request, however, is confidential, in accordance with Sec. 164.007(c), Texas Occupations Code. The TMB is authorized to provide this confidential information to a law enforcement agency, pursuant to Sec. 164.007(h), which provides:

(h) The board shall cooperate with and assist a law enforcement agency conducting a criminal investigation of a license holder by providing information that is relevant to the criminal investigation to the investigating agency. **Information disclosed by the board to an investigative agency remains confidential and may not be disclosed by the investigating agency except as necessary to further the investigation.**

It is our understanding that your agency is a bona fide law enforcement agency and is conducting a criminal investigation of a license holder of the TMB. It is also our understanding that your agency is authorized to and agrees to maintain the confidentiality of this information, as required by Sec. 164.007(h), Texas Occupations Code. If we are incorrect in any of these understandings, please advise us immediately. TMB is not authorized to provide confidential information unless these assumptions are correct.

Location Address:
333 Guadalupe, Tower 3, Suite 610
Austin, Texas 78701

Mailing Address
MC-251, P.O. Box 2018
Austin, Texas 78768-2018

Phone 512.305.7010
Fax 512.305.7051
www.tmb.state.tx.us

EXHIBIT
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This confidential information includes the following:

Copy of complaint

For more information about this request please contact me at my direct number: 512-305-7075.

Yours very truly,

A handwritten signature in cursive script that reads "Bonnie Kaderka".

Bonnie Kaderka
Open Records Information Specialist

COPY

#109-005

AFFIDAVIT FOR SEARCH & ARREST WARRANT

THE STATE OF TEXAS

COUNTY OF WINKLER

1. THERE IS IN WINKLER COUNTY, TEXAS, A SUSPECTED PLACE AND PREMISES ITEMS DESCRIBED AND LOCATED AS FOLLOWS: (1) A GATEWAY 2000 COMPUTER GT5263E, SYSTEM S/N CCZ6A N10 04409 LOCATED IN THE WINKLER COUNTY COMMUNITY CENTER, OFFICE OF EMERGENCY MANAGEMENT 118 N POPLAR KERMIT TX. (2) A DELL OPTIPLEX 2101L COMPUTER S/N 6GX4W91 LOCATED IN THE WINKLER COUNTY MEMORIAL HOSPITAL OFFICE OF COMPLIANCE 821 JEFFEE KERMIT TX. (3) A DELL OPTIPLEX 2101L COMPUTER NO S/N AVAILABLE LOCATED IN THE WINKLER COUNTY MEMORIAL HOSPITAL OFFICE OF QUALITY CONTROL 821 JEFFEE KERMIT TX. SEARCH WARRANT TO INCLUDE ANY AND ALL COMPUTER STORAGE DEVICES TO INCLUDE FLOPPY DISKS CD'S AND FLASH DRIVES AND ANY OTHER MEDIA CAPABLE OF STORING COMPUTER FILES. FURTHER, THERE MAY EXIST IN THESE PREMISES CERTAIN HARD COPY PRINTOUTS CONTAINING RELEVANT MATERIAL TO THE PENDING INVESTIGATION.
2. THERE IS AT SAID SUSPECTED PLACE AND PREMISES PROPERTY CONCEALED AND KEPT IN VIOLATION OF THE LAWS OF TEXAS AND DESCRIBED AS FOLLOWS: AN ANONYMOUS LETTER TO THE TEXAS STATE MEDICAL BOARD LISTING COMPLAINTS AGAINST DR ROLANDO ARAFILES
3. SAID SUSPECTED PLACE AND PREMISES ARE IN CHARGE OF AND CONTROLLED BY EACH OF THE FOLLOWING PERSONS: THE COMPUTERS IN THE OFFICE EMERGENCY MANAGEMENT AND COMPLIANCE ANNE M MITCHELL, THE COMPUTER IN THE OFFICE OF QUALITY CONTROL VICKILYN GALLE. THE COMPUTERS ARE THE PROPERTY OF WINKLER COUNTY
4. IT IS THE BELIEF OF AFFIANT, AND HE HEREBY CHARGES AND ACCUSES, THAT: ANN M MITCHELL OR VICKILYN GALLE ON OR ABOUT APRIL OF 2009 INTENTIONALLY, AND KNOWINGLY SENT THE ANONYMOUS LETTER TO THE TEXAS STATE MEDICAL BOARD LISTING COMPLAINTS AGAINST DR ROLANDO ARAFILES WITH THE INTENT HARM OR DEFRAUD DR ROLANDO ARAFILES, AND WITH THE INTENT TO HARASS, ANNOY, ALARM, ABUSE, TORMENT, OR EMBARRASS DR ROLANDO ARAFILES
5. AFFIANT HAS PROBABLE CAUSE FOR SAID BELIEF BY REASON OF THE FOLLOWING FACTS: ON TUESDAY 05/19/2009 AT APPROXIMATELY 2:00 PM WINKLER COUNTY SHERIFF ROBERT L ROBERTS, AND I CHIEF INVESTIGATOR JAMES N SWANSON CONDUCTED INTERVIEWS OF EMPLOYEE'S OF THE WINKLER COUNTY MEMORIAL HOSPITAL. CERTAIN SUBJECTS INTERVIEWED APPEARED DECEPTIVE ABOUT FACTS SURROUNDING THE ALLEGED IMPROPER USE OF MEDICAL AND / OR HOSPITAL RECORDS. THIS OFFICER BELIEVES THAT THERE MAY EXIST ON THE COMPUTERS OR IN THE FILES OF 2 INDIVIDUALS, CERTAIN DATA AND OR FILES WHICH MAY OR WILL CONTAIN MATERIAL RELEVANT AND MATERIAL TO THE INVESTIGATION BEING CONDUCTED. SPECIFICALLY, THIS OFFICER BELIEVES THAT THE COMPUTERS AND / OR HARD DRIVES / AND OR STORAGE INCLUDING

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HARD COPY PRINTOUTS OF FILES ALLOTTED TO ANNE MITCHELL AND VICKILYN GALLE MAY OR WILL CONTAIN DATA AND / OR FILES AND / OR MEDIA STORAGE RELEVANT TO THE INVESTIGATION IN PROGRESS. THIS OFFICER FURTHER BELIEVES THAT UNLESS THIS DATA IS RETRIEVED BY USE OF THIS SEARCH WARRANT THAT THE DATA AND / OR FILES MAY BE CORRUPTED OR ERASED SUCH THAT THE DATA AND / OR FILES WILL BE FOREVER LOST.

WHEREFORE, YOU ARE DIRECTED TO ENTER THE SUSPECTED PLACE AND PREMISES BEING THE OFFICE OF EMERGENCY MANAGEMENT LOCATED AT 118 N POPLAR KERMIT TX, AND THE OFFICES OF QUALITY CONTROL AND THE OFFICES OF COMPLIANCE LOCATED AT 821 JEFFEE KERMIT TX. YOU ARE DIRECTED TO SEARCH FOR AND TO SEIZE THE FOLLOWING PROPERTY:

RECORDS IN THE POSSESSION OF ANNE M MITCHELL, AND VICKILYN GALLE. THAT EVIDENCE OF VIOLATIONS OF TEXAS PENAL CODE 42.07, AND 39.06, TO WIT: ELECTRONIC STORAGE DEVICES CAPABLE OF RECEIVING OR STORING ELECTRICAL DATA REGARDING THE AFOREMENTIONED (RECORDS), INCLUDING, WITHOUT LIMITATION, MAGNETIC TAPES AND DISKS, FLOPPY DISKETTES AND HARD DRIVE DATA STORAGE DISKS, FLASH DRIVES, CD ROMS, DVD'S, HARD COPY PRINT-OUTS OF FILES AND DATA, AND THE HARDWARE NECESSARY TO RETIEVE SUCH DATA, INCLUDING, BUT NOT LIMITED TO, CENTRAL PROCESSING UNITS (CPUs), VIEWING SCREENS, DISK OR TAPE DRIVES, PRINTERS, MONITORS, AND THE MANUALS FOR THE OPERATION THEREOF WITH ALL SOFTWARE, HANDWRITTEN NOTES, OR PRINTED MATERIALS DESCRIBING THE OPERATION OF SAID COMPUTERS, HARDWARE AND SOFTWARE AND ANY AND ALL PASSWORDS FOUND AT THE LOCATION THAT MAY ALLOW ACCESS TO ANY OF THE AFOREMENTIONED EQUIPMENT.


Affiant

Subscribed and sworn to before me by said Affiant on this the 19th day of May, 2009.


MAGISTRATE, WINKLER COUNTY,
TEXAS

THE STATE OF TEXAS

COUNTY OF WINKLER

THE STATE OF TEXAS to the Sheriff or any Peace Officer of Winkler County, Texas or any Peace Officer of the State of Texas, Greeting:

WHEREAS, the Affiants whose names appear on the Affidavit on the reverse side hereof are Peace Officers under the laws of Texas and did heretofore this day subscribe and swear to said Affidavit before me (which said Affidavit is here now made part hereof for all purposes), and whereas I find that the verified facts stated by Affiants in said Affidavit show that Affiants have probable cause for the belief they express therein and establish existence of proper grounds for issuance of this Warrant: now, therefore, you are commanded to enter the suspected place described in said Affidavit and to there search for the personal property described in said Affidavit and to seize same and to arrest and bring before me each suspected party named in said Affidavit.

FURTHER, you are ORDERED, pursuant to the provisions of Article 18.10, Texas Code of Criminal Procedure, to retain custody of any property seized pursuant to this Warrant, until further order of the Court or any other court of appropriate jurisdiction shall otherwise direct the manner of safekeeping of said property. This Court grants you leave and authority to remove such seized property from this county, if and only if such removal is necessary for the safekeeping of such seized property by you, or if such removal is otherwise authorized by the provisions of Article 18.10, T.C.C.P. You are further ORDERED to give notice to this Court, as a part of the Inventory to be filed subsequent to the execution of this Warrant, and as required by Article 18.10, T.C.C.P., of the place where the property seized hereunder is kept, stored and held.

HEREIN FAIL NOT, but have you then and there this Warrant within three days, exclusive of the day of its issuance and exclusive of the day of its execution, with your return thereon, showing how you have executed the same, filed in this Court.

ISSUED THIS THE 19th day of May, A.D., 2007, at 8:35 o'clock P. M. To certify which witness my hand this day.

De Lynn Drummell
MAGISTRATE

THE STATE OF TEXAS
COUNTY OF WINKLER

Each of the undersigned Affiants, being a Peace Officer under the laws of Texas and being duly sworn, on oath certified that the foregoing Warrant came to hand on the day it was issued and that it was executed on the 19th day of MAY, A.D., 2007, by making the search directed therein and by arresting and placing in jail each of the following parties, to wit:

and by seizing during such search the following described property; retained by such Peace Officer, and kept, stored and held as hereinafter set out:

118 N Poplar (Community Center Office of Emergency Management) GATEWAY 2000
Computer GT5263E system SN C026A NIO 04404 and 1 Kingston 4G Flash
881 Jeffee (WINKLER County Memorial Hospital)
V. GANK's office DELL Computer SN CEX4W91 + Kingston 1G Flash Drive + 35 Prop.
A.Mitchell's office DELL Computer SN GEX4W91, + Letter from Tx Medical Board Dist.
Dated 4/19/2007

AFFIANT [Signature]

SUBSCRIBED AND SWORN TO BEFORE ME by each of said Affiants whose name is signed above on this the 20th day of May, A.D., 2007.

De Lynn Drummell
MAGISTRATE